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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-499

13 **SANDRA PATRICIA SELIG-FARNEY**  
14 **A.K.A SANDRA PATRICIA SELIG,**  
15 **A.K.A. SANDRA PATRICIA KELLEY**  
16 **64 Waterside Circle**  
17 **San Rafael, CA 94903**

**A C C U S A T I O N**

18 **Registered Nurse License No. 364623**

19 **Public Health Nurse Certificate No. 36103**

20 Respondent.

21 Complainant alleges:

22 **PARTIES**

23 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
24 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
25 Consumer Affairs.

26 2. On or about August 31, 1983, the Board of Registered Nursing issued Registered  
27 Nurse License Number 364623 to Sandra Patricia Selig-Farney a.k.a. Sandra Patricia Selig, a.k.a.  
28 Sandra Patricia Kelley (Respondent). The Registered Nurse License was in full force and effect  
at all times relevant to the charges brought in this Accusation and will expire on July 31, 2013,  
unless renewed.

3. On or about May 29, 1984, the Board of Registered Nursing issued Public Health Nurse Certificate Number 36103 to Sandra Patricia Selig-Farney a.k.a. Sandra Patricia Selig, a.k.a. Sandra Patricia Kelley (Respondent). The Public Health Nurse Certificate was in full force and effect at all times relevant to the charges brought in this Accusation and will expire on July 31, 2013, unless renewed.

## JURISDICTION

4. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

7. Section 118, subdivision (b) of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

## STATUTORY/REGULATORY PROVISIONS

8. Section 2761 of the Code states, in pertinent part:

The Board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

• • •

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

...

9. Section 2762 of the Code states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

10. Section 2052 of the Code states, in pertinent part:

(a) Notwithstanding Section 146, any person who practices or attempts to practice, or who advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, without having at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in this chapter or without being authorized to perform the act pursuant to a certificate obtained in accordance with some other provision of law is guilty of a public offense, punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment in the state prison, by imprisonment in a county jail not exceeding one year, or by both the fine and either imprisonment.

...

(c) The remedy provided in this section shall not preclude any other remedy provided by law.

11. Section 2725 of the Code states:

"(a) In amending this section at the 1973-74 session, the Legislature recognizes that nursing is a dynamic field, the practice of which is continually evolving to include more sophisticated patient care activities. It is the intent of the Legislature in amending this section at the 1973-74 session to provide clear legal authority for functions and procedures that have common acceptance and usage. It is the legislative intent also to recognize the existence of overlapping functions between physicians and registered nurses and to permit additional sharing of functions within organized health care systems that provide for collaboration between physicians and registered nurses. These organized health care systems include, but are not limited to, health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, clinics, home health agencies, physicians' offices, and public or community health services.

"(b) The practice of nursing within the meaning of this chapter [the Nursing Practice Act] means those functions, including basic health care, that help people cope with difficulties in daily living that are associated with their actual or potential health or illness problems or the treatment thereof, and that require a substantial amount of scientific knowledge or technical skill, including all of the following:

...

(2) Direct and indirect patient care services, including, but not limited to, the administration of medications and therapeutic agents, necessary to implement a treatment, disease prevention, or rehabilitative regimen ordered by and within the scope of licensure of a physician, dentist, podiatrist, or clinical psychologist, as defined by Section 1316.5 of the Health and Safety Code.

...

(4) Observation of signs and symptoms of illness, reactions to treatment, general behavior, or general physical condition, and (A) determination of whether the signs, symptoms, reactions, behavior, or general appearance exhibit abnormal characteristics, and (B) implementation, based on observed abnormalities, of appropriate reporting, or referral, or standardized procedures, or

1 changes in treatment regimen in accordance with standardized procedures, or the initiation of  
2 emergency procedures.

3 "(c) 'Standardized procedures,' as used in this section, means either of the following:

4 (1) Policies and protocols developed by a health facility licensed pursuant to Chapter 2  
5 (commencing with Section 1250) of Division 2 of the Health and Safety Code through  
6 collaboration among administrators and health professionals including physicians and nurses.

7 (2) Policies and protocols developed through collaboration among administrators and  
8 health professionals, including physicians and nurses, by an organized health care system which  
9 is not a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of  
10 Division 2 of the Health and Safety Code.

11 12. Section 2725.1 of the Code states, in pertinent part:

12 Notwithstanding any other provision of law, a registered nurse may dispense drugs or  
13 devices upon an order by a licensed physician and surgeon if the nurse is functioning within a  
14 licensed clinic as defined in paragraphs (1) and (2) of subdivision (a) of Section 1204 of, or  
15 within a clinic as defined in subdivision (b) or (c) of Section 1206 of the Health and Safety Code.

16 No clinic shall employ a registered nurse to perform dispensing duties exclusively. No  
17 registered nurse shall dispense drugs in a pharmacy, keep a pharmacy, open shop, or drugstore for  
18 the retailing of drugs or poisons. No registered nurse shall compound drugs. Dispensing of drugs  
19 by a registered nurse, except a certified nurse-midwife who functions pursuant to a standardized  
20 procedure or protocol described in Section 2746.51 or a nurse practitioner who functions pursuant  
21 to a standardized procedure described in Section 2836.1, or protocol, shall not include substances  
22 included in the California Uniform Controlled Substances Act (Division 10 (commencing with  
23 section 11000) of the Health and Safety Code). Nothing in this section shall exempt a clinic from  
24 the provisions of Article 13 (commencing with Section 4180) of Chapter 9.

25 ....

26 (2) Direct and indirect patient care services, including, but not limited to, the  
27 administration of medications and therapeutic agents, necessary to implement a treatment, disease  
28 prevention, or rehabilitative regimen ordered by and within the scope of licensure of a physician,

1 dentist, podiatrist, or clinical psychologist, as defined by Section 1316.5 of the Health and Safety  
2 Code.

3 13. Title 16, California Code of Regulations, section 1442 states:

4 "As used in Section 2761 of the code, "gross negligence" includes an extreme departure  
5 from the standard of care which, under similar circumstances, would have ordinarily been  
6 exercised by a competent registered nurse. Such an extreme departure means the repeated failure  
7 to provide nursing care as required or failure to provide care or to exercise ordinary precaution in  
8 a single situation which the nurse knew, or should have known, could have jeopardized the  
9 client's health of life."

10 14. Title 16, California Code of Regulations, section 1474 states:

11 "Following are the standardized procedure guidelines jointly promulgated by the Medical  
12 board of California and by the Board of Registered Nursing:

13 (a) Standardized procedures shall include a written description of the method used in  
14 developing and approving them and any revision thereof.

15 (b) Each standardized procedure shall:

16 (1) Be in writing, dated and signed by the organized health care system personnel  
17 authorized to approve it.

18 (2) Specify which standardized procedure functions registered nurses may perform and  
19 under what circumstances.

20 (3) State any specific requirements which are to be followed by registered nurses in  
21 performing particular standardized procedure functions.

22 (4) Specify any experience, training, and/or education requirements for performance of  
23 standardized procedure functions.

24 (5) Establish a method for initial and continuing evaluation of the competence of those  
25 registered nurses authorized to perform standardized procedure functions.

26 (6) Provide for a method of maintaining a written record of those persons authorized to  
27 perform standardized procedure functions.  
28

1 (7) Specify the scope of supervision required for performance of standardized procedure  
2 functions, for example, immediate supervision by a physician.

3 (8) Set forth any specialized circumstances under which the registered nurse is to  
4 immediately communicate with a patient's physician concerning the patient's condition.

5 (9) State the limitations on settings, if any, in which standardized procedure functions may  
6 be performed.

7 (10) Specify patient record keeping requirements.

8 (11) Provide for a method of periodic review of the standardized procedures."

### 9 COST RECOVERY

10 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
11 administrative law judge to direct a licensee found to have committed a violation or violations of  
12 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
13 enforcement of the case.

### 14 DRUGS

15 16. Section 4022 of the Code states:

16 "Dangerous drug" or dangerous device' means any drug or device unsafe for self-use in  
17 humans or animals, and includes the following:

18 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without  
19 prescription," "Rx only," or word of similar import.

20 (b) Any device that bears the statement: "Caution: federal law restricts this device to sale  
21 by or on the order of a, II "Rx only," or words of similar import, the blank to be filled in with the  
22 designation of the practitioner licensed to use or order use of the device.

23 (c) Any other drug or device that by federal or state law can be lawfully dispensed

24 17. Botox (Botulinum Toxin Type A) is a purified protein produced by the Clostridium  
25 botulinum bacterium, which reduces the activity of the muscles that cause lines between the  
26 brows to form over time when injected under the skin. It is a dangerous drug that can be  
27 dispensed only upon a prescription, pursuant to Code section 4022.

18. Juvederm is a sterile, biodegradable, non-pyrogenic, viscoelastic, clear, colorless, homogenized injectible gel, composed of crosslinked hyaluronic acid formulated to a concentration of 22026 mg/mL, suspended in a physiological buffer. Depending on its formulation, Juvederm should be injected using a 27-30 gauge needle, and is indicated for volumizing and correcting facial folds and wrinkles. It is a dangerous drug that can be dispensed only upon a prescription, pursuant to Code section 4022.

## FACTS

19. Since on or about July 15, 2004, Respondent was a 24.5% owner of Mt. Tam Laser and Skin Care, a Professional Corporation (“Mt. Tam Laser”), along with Laurence Wolf, M.D. (51% owner) and Karol Jan Meier, R.N. (24.5% owner). Mt. Tam Laser is located in Kentfield, California. Mt. Tam Laser operated with an incomplete Standardized Procedures and Protocols that had not been updated since 2004.

20. Dr. Wolf received a stipend from Mt. Tam Laser in the amount of \$2,000.00 per month to conduct periodic reviews of patient files and sign off on patients after treatments were performed. Dr. Wolf has a private plastic surgery practice and did not practice or evaluate patients at Mt. Tam Laser. Dr. Wolf did not prescribe dangerous drugs, perform injections, or perform “good faith exams” on laser treatment patients at Mt. Tam Laser. Dr. Wolf has disassociated himself from Mt. Tam Laser.

21. Respondent performed Botox and Juvederm injections, conducted good faith examinations, and ordered and obtained Botox and Juvederm by using Dr. Wolf's prescribing number.

22. On or about June 17, 2010, through June 28, 2010, Patient L.K.<sup>1</sup> received a series of three laser hair removal treatments from Respondent. Respondent conducted an initial examination and performed the above-referenced laser hair removal treatments without any supervision by a physician. On or about June 27, 2010, L.K. complained of unusual pain during the third laser hair removal treatment, however Respondent completed the procedure.

<sup>1</sup> Initials are used to protect patient privacy. Patient names will be provided upon a request for discovery.



1 Respondent provided L.K. with cold compresses and topical medication, and advised L.K. to  
2 avoid sun exposure. That evening, L.K. suffered extreme pain and observed red blisters on her  
3 legs. The next day, Patient L.K., Respondent conducted a follow-up examination and opined that  
4 previous sun exposure was the cause of Respondent's injuries. L.K. was treated by  
5 dermatological burn specialists and her legs remain scarred from the treatments performed by  
6 Respondent.

#### 7 **FIRST CAUSE FOR DISCIPLINE**

##### 8 **(Gross Negligence)**

9 23. Respondent has subjected her licenses to disciplinary action under section 2761.  
10 Subdivision (a)(1), on the grounds of gross negligence, as follows:

11 A. Respondent practiced or attempted to practice without a valid license, as defined in  
12 Code section 2052, subdivision (a), in that she owned and operated a business that offered  
13 medical service without the required physician supervision, as set forth in paragraphs 20 and 21,  
14 above.

15 B. Respondent failed to have a physician perform a good-faith medical examination  
16 before she provided laser hair removal treatments to patients, as set forth in paragraphs 20, 21,  
17 and 22, above.

18 C. Respondent prescribed, dispensed, and furnished dangerous drugs, as defined in Code  
19 section 4022, without a physician examination and/or a valid prescription, as set forth in  
20 paragraphs 20 and 21, above.

#### 21 **SECOND CAUSE FOR DISCIPLINE**

##### 22 **(Unprofessional Conduct – Practicing Medicine Without a License)**

23 24. Respondent has subjected her licenses to disciplinary action under section 2761,  
24 subdivision (a) and (d), on the grounds of unprofessional conduct in that by prescribing and  
25 administering Botox and Juvederm, dangerous drugs as defined in Code section 4022, she  
26 engaged in the unlicensed practice of medicine by treating patients without proper direction by a  
27 physician, and without prescriptions for the dangerous drugs she injected, as prohibited by Code  
28 sections 2052, 2725, and 2725.1, as described in paragraphs 20 and 21.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Administering Dangerous**  
3 **Drugs Without Physician’s Order)**

4 25. Respondent has subjected her licenses to disciplinary action under section 2761,  
5 subdivision (d), on the grounds of unprofessional conduct, in that she dispensed Botox and  
6 Juvederm, dangerous drugs as defined in Code section 4022, to patients without a physician’s  
7 order, in violation of Code section 2725, subdivision (b)(2), as described in paragraphs 20, and  
8 21.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct –Obtaining, Possessing, Prescribing, Administering or Furnishing**  
11 **Dangerous Drugs)**

12 26. Respondent has subjected her licenses to disciplinary action under section 2762,  
13 subdivision (a), on the grounds of unprofessional conduct, in that she obtained, possessed,  
14 prescribed, administered, or furnished Botox and Juvederm, dangerous drugs as defined in Code  
15 section 4022, to patients and treated patients with those drugs without a valid prescription, as  
16 described in paragraphs 20 and 21.

17 ///

18 ///

19 ///

**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 364623, issued to Sandra Patricia Selig-Farney, a.k.a. Sandra Patricia Selig, a.k.a. Sandra Patricia Kelley;

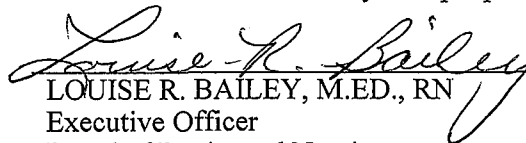
2. Revoking or suspending Public Health Nurse Certificate Number 36103, issued to Sandra Patricia Selig-Farney, a.k.a. Sandra Patricia Selig, a.k.a. Sandra Patricia Kelley;

3. Ordering Sandra Patricia Selig-Farney, a.k.a. Sandra Patricia Selig, a.k.a. Sandra Patricia Kelley to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

4. Taking such other and further action as deemed necessary and proper.

DATED:

December 19, 2012



LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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